

PROVIDING FOR THE CONSIDERATION OF H.R. 3144, THE
DEFEND AMERICA ACT OF 1996

MAY 16, 1996.—Referred to the House Calendar and ordered to be printed

Mr. DIAZ-BALART, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 438]

The Committee on Rules, having had under consideration House Resolution 438, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The rule provides for consideration in the House with two hours of debate divided equally between the chairman and ranking minority member of the Committee on National Security. The rule waives all points or order against the bill and against its consideration.

The rule also makes in order without intervention of any point of order one minority amendment in the nature of a substitute to be offered by Mr. Spratt or his designee and which is printed in this report. The rule provides that the substitute shall be debatable separately for one hour divided equally between the proponent and an opponent. Finally, the rule provides for one motion to recommit with or without instructions.

THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE SPRATT OF
SOUTH CAROLINA, OR A DESIGNEE, DEBATABLE FOR 1 HOUR

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ballistic Missile Defense Act of 1996”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Short-range theater ballistic missiles threaten United States Armed Forces wherever engaged abroad. Therefore, the expeditious deployment of theater missile defenses to intercept ballistic missiles at greater ranges and higher altitudes is the highest priority among all ballistic missile defense programs.

(2) The United States is developing defensive systems to protect the United States against the threat of limited ballistic missile attacks. Ground-based defensive systems are attainable, compliant with the ABM Treaty, more affordable than space-based interceptors or space-based lasers, and can protect all of the United States from limited ballistic missile attack.

(3) Defending against ballistic missile attacks upon our national territory requires not only missile defenses but arms control agreements and nonproliferation measures that lower the threat and curb the spread of ballistic missile technology.

(4) The massive retaliatory capability of the United States deterred the Soviet Union, and any other nation, from launching an attack by intercontinental ballistic missiles throughout the Cold War. The Nuclear Posture Review conducted by the Department of Defense affirms the effectiveness of deterrence now and into the future. While the threat of intentional attack upon the United States has receded, the risk of an accidental or unauthorized attack by Russia or China remains but is remote.

(5) United States arms control agreements (notably the START I Treaty and the START II Treaty, once implemented) will lower the threat to the United States from large-scale nuclear attack. The START I Treaty, when fully implemented, will reduce deployed warheads by over 40 percent below 1990 levels. By the end of 1996, only Russia, among the states of the former Soviet Union, will deploy nuclear weapons. The START II Treaty, if implemented, will reduce warheads deployed in Russia by 66 percent below their levels before the Start I Treaty.

(6) As strategic offensive weapons are reduced, the efficacy and affordability of defensive systems increases, raising the possibility of deterrence based upon effective defenses rather than deterrence based solely upon threat of massive retaliation.

(7) Countries hostile to the United States (such as Iraq, Iran, North Korea, and Libya) have manifested an interest in developing ballistic missiles capable of reaching the United States. These countries may accelerate the development of long-range missiles if they receive external support, but in the absence of outside assistance, newly emerging threats may take as long as 15 years to mature, according to recent intelligence estimates.

(8) The Nuclear Non-Proliferation Treaty, the Missile Technology Control Regime, the Biological and Chemical Weapons Convention, and continuing United States efforts to enforce export controls will prevent or delay external assistance needed by those countries to develop intercontinental ballistic missiles and weapons of mass destruction.

(9) The ABM Treaty has added to strategic stability by restraining the requirement on both sides for strategic weapons. At the summit in May 1995, the President of the United States and the President of Russia each reaffirmed his country's commitment to the ABM Treaty.

(10) Abrogating the ABM Treaty to deploy a noncompliant system will not add to strategic stability if it impedes implementation of the START I or START II Treaty. Without the removal of strategic weapons scheduled by both treaties, the consequences and risks of unauthorized or accidental launches will remain undiminished, as will the potential threat of a large-scale attack capable of overwhelming any defenses deployed.

(11) If the nuclear arsenal of the United States must be maintained at START I levels, significant unbudgeted costs will be incurred, encroaching on funds for ballistic missile defenses and other defense requirements.

(12) Should arms control, nonproliferation efforts, and deterrence fail, the United States must be able to defend itself against limited ballistic missile attack.

(13) Missile defense systems consistent with the ABM Treaty are capable of defending against limited ballistic missile attack. Should a national missile defense system require modification of the ABM Treaty, the treaty establishes the means for the parties to amend the treaty, which the parties have used in the past.

SEC. 3. NATIONAL MISSILE DEFENSE POLICY.

(a) **IN GENERAL.**—It is the policy of the United States to develop by the year 2000 a National Missile Defense System that can be deployed in 2003.

(b) **CAPABILITY OF SYSTEM.**—The National Missile Defense System to be developed pursuant to subsection (a) shall be capable, when deployed, of providing a highly effective defense of the United States against limited ballistic missile attacks.

(c) **TESTING BEFORE DEPLOYMENT.**—The system developed pursuant to subsection (a) shall be rigorously tested during development.

(d) **IMPROVEMENTS.**—If a decision to deploy the system developed pursuant to subsection (a) is not made by the end of the year 2000, the Secretary of Defense shall ensure that the system is improved by incorporation of evolving technology to increase effectiveness and reduce costs of a subsequent deployment, and that rigorous testing continues.

SEC. 4. BALLISTIC MISSILE DEFENSE PRIORITIES.

The following, in the order listed, shall be the policy of the United States with respect to the priority for development and deployment of ballistic missile defense programs:

(1) First, maintaining the operational readiness of the Armed Forces, including a good quality of life for servicemembers and their families, and modernization of weapons systems to ensure mission effectiveness in the future.

(2) Second, as part of such modernization, completing the development and deployment of essential theater missile defense (TMD) systems as soon as practicable.

(3) Third, developing by the year 2000 for deployment in the year 2003 the system referred to in section 3 and section 5(b) and developing for deployment as soon as practicable the space-based sensors described in section 5(c).

SEC. 5. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) **REQUIREMENT FOR NATIONAL MISSILE DEFENSE PROGRAM.**—To implement the policy established in section 3, the Secretary of Defense shall initiate a National Missile Defense Program, which shall position the United States, by the end of the year 2000, to be capable of deploying a National Missile Defense system, as described in section 3(b), within three years.

(b) **ELEMENTS OF THE NMD PROGRAM.**—The National Missile Defense Program shall include the following elements:

- (1) A ground-based interceptor system that provides coverage of the continental United States (including Alaska) and Hawaii.
- (2) Fixed ground-based radars.
- (3) Space-based sensors.
- (4) Battle management, command, control and communications (BM/C³).

SEC. 6. IMPLEMENTATION OF NMD PROGRAM.

The Secretary of Defense shall—

- (1) initiate plans and actions necessary to meet the deployment readiness goals specified in section 5(a);
- (2) conduct rigorous integrated system testing using elements representative of the National Missile Defense architecture referred to in section 5(b);
- (3) prescribe and use streamlined acquisition policies and procedures, in accordance with existing law, to reduce the cost and increase the efficiency of developing the system referred to in section 5(b); and
- (4) develop technologies that have the potential of improving the National Missile Defense system prescribed in section 5(b).

SEC. 7. REPORTING REQUIREMENT.

Not later than March 15, 1997, the Secretary of Defense shall submit to Congress a report on the Secretary's plan for the National Missile Defense Program required by this Act. The report shall include the following matters:

- (1) The Secretary's plan for carrying out this Act, including—
 - (A) a detailed description of the system architecture selected for development under section 5(b); and
 - (B) a justification of the architecture selected and reasons for the rejection of the other candidate architectures.
- (2) The Secretary's estimate of the amount of appropriations required for research, development, test, evaluation, and for procurement, for each of fiscal years 1997 through 2003 in order to achieve an initial operational capability in 2003.
- (3) A description of promising technologies to be pursued in accordance with the requirements of section 6(4).
- (4) A determination of the point at which any activity that is required to be carried out under this Act would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for the Secretary's determina-

tion, and an estimate of the time at which such point would be reached in order to meet an initial operating capability in the year 2003.

SEC. 8. POLICY REGARDING REDUCTION OF THE THREAT TO THE UNITED STATES FROM WEAPONS OF MASS DESTRUCTION.

(a) **MEASURES TO ADDRESS THREATS FROM WEAPONS OF MASS DESTRUCTION.**—In order to defend against weapons of mass destruction by preventing the spread of fissile materials and other components of weapons of mass destruction, the President shall—

(1) enhance efforts, both unilaterally and in cooperation with other nations, to prevent terrorist organizations from obtaining and using weapons of mass destruction;

(2) expedite United States efforts to assist the Governments of the Russian Federation, Ukraine, Belarus, and Kazakhstan, as appropriate, in improving the safety, security, and accountability of fissile materials and nuclear warheads;

(3) undertake additional steps to prevent weapons of mass destruction and their components from being smuggled into the United States, through the use of improved security devices at United States ports of entry, increased numbers of Border Patrol agents, increased monitoring of international borders, and other appropriate measures;

(4) seek the widest possible international adherence to the Missile Technology Control Regime and pursue to the fullest other export control measures intended to deter and counter the spread of weapons of mass destruction and their components; and

(5) enhance conventional weapons systems to ensure that the United States possesses effective deterrent and counterforce capabilities against weapons of mass destruction and their delivery systems.

(b) **MEASURES TO ADDRESS THREATS FROM ICBMS.**—In order to reduce the threat to the United States from weapons of mass destruction delivered by intercontinental ballistic missiles, including accidental or unauthorized launches, the President shall—

(1) urge the Government and Parliament of the Russian Federation to ratify the START II Treaty as soon as possible, permitting its expeditious entry into force;

(2) pursue with the Government of the Russian Federation, after START II entry-into-force, a symmetrical program of early deactivation of strategic forces to be eliminated under START II; and

(3) work jointly with countries possessing intercontinental ballistic missiles to improve command and control technology and operations to the maximum extent practicable.

(c) **DEPARTMENT OF DEFENSE PROGRAM.**—Consistent with, and in order to complement, the steps to be taken by the President under subsection (a)(3), the Secretary of Defense shall carry out a program to enhance the capabilities of the United States relating to the threat to the United States of a chemical or biological weapons attack inside the United States by unconventional means. In carrying out such program, the Secretary shall take into consideration the assessments and recommendations of the task force established

under subsection (d). The activities to be carried out by the Secretary under the program shall include the following:

(1) Research, development, test, and evaluation of technologies relating to any of the following:

(A) Detection of chemical or biological weapons.

(B) Interception of such weapons.

(C) Protection against such weapons.

(D) Response to an attack inside the United States using such weapons.

(E) Decontamination of areas affected by an attack using such weapons.

(2) Training of personnel for the activities specified in subparagraphs (A) through (E) of paragraph (1).

(3) Identification of Federal equipment and technologies that can be transferred from one Federal agency to another agency or to State and local agencies consistent with the purposes of the program under this subsection.

(d) INTERAGENCY TASK FORCE.—(1) There is hereby established in the executive branch an interagency task force to assess, and make recommendations concerning, the capabilities of the United States relating to the threat of a chemical or biological weapons attack inside the United States by unconventional means.

(2) The task force shall on an ongoing basis assess the current state of the United States with respect to each of the following and shall identify and recommend potential improvements:

(A) The nature of the threat to the United States of a chemical or biological weapons attack inside the United States by unconventional means.

(B) Capabilities related to detection and interception of such weapons or the possibility of such an attack.

(C) Capabilities related to protection against the effects of such an attack.

(D) Capabilities related to preparedness for, and response to, such an attack.

(E) Capabilities related to decontamination following such an attack.

(F) Public education concerning the dangers of such an attack and the appropriate response to such an attack.

(3) Membership of the task force shall include representatives of the following departments and agencies:

(A) The Department of Defense.

(B) The Central Intelligence Agency, but only with respect to assessment of the nature of the threat.

(C) The Department of Justice, including the Federal Bureau of Investigation and the Immigration and Naturalization Service.

(D) The Federal Emergency Management Agency.

(E) The Department of the Treasury, including the Customs Service and the Bureau of Alcohol, Tobacco, and Firearms.

(F) The Department of Health and Human Services, including the Centers for Disease Control.

(4) In carrying out its activities, the task force shall consult regularly with, and shall seek the views of, representatives of—

(A) State and local government law enforcement authorities; and

(B) State and local government emergency planning authorities.

(5) Administrative support for the task force shall be provided by the Secretary of Defense.

(e) ANNUAL REPORT.—The President shall submit to Congress an annual report on actions by the United States to comply with the provisions of this section. The first such report shall be submitted not later than 180 days after the date of the enactment of this Act.

SEC. 9. POLICY REGARDING THE ABM TREATY.

(a) IN GENERAL.—The President shall—

(1) carry out the policies, programs, and requirements of this Act in a manner consistent with the ABM Treaty or through processes specified within the ABM Treaty;

(2) at an appropriate time, seek amendments to the ABM Treaty, as provided in Articles XIII and XIV of the Treaty, if such amendments are required to deploy the National Missile Defense system prescribed in section 5; and

(3) treat any negotiated amendment to the ABM Treaty as having entered into force only if such amendment is made in the same manner as a treaty (including the requirement that ratification by the United States is subject to the advice and consent of the Senate).

(b) MODIFICATIONS RESTRICTING TMD SYSTEMS.—The United States shall not be bound by any amendment or other substantive modification to the ABM treaty that restricts theater ballistic missile defense systems unless—

(1) that system is actually flight-tested against a ballistic missile that exceeds (A) a range of 3,500 kilometers, or (B) a velocity of 5 kilometers per second; or

(2) the agreement for such modification is made pursuant to the requirements of section 235 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 231).

SEC. 10. ABM TREATY DEFINED.

For purposes of this Act, the term “ABM Treaty” means the Treaty between the United States and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, signed at Moscow on May 26, 1972, and includes Protocols to that Treaty signed at Moscow on July 3, 1974, and all Agreed Statements and amendments to such Treaty in effect.